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Attorneys for Twentieth Century Fox
Television, a division of Twentieth Century
Fox Film Corporation, and Fox Broadcasting
Company

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

TWENTIETH CENTURY FOX
TELEVISION, a division of
TWENTIETH CENTURY FOX FILM
CORPORATION, a Delaware company,
et al.

Plaintiffs,

v.

EMPIRE DISTRIBUTION, INC., a
California corporation,

Defendant.

And related counterclaims

Case No. 2:15-cv-02158 PA(FFMx)

**DECLARATION OF ANDREW
ROSS IN SUPPORT OF FOX'S
MOTION FOR SUMMARY
JUDGMENT**

Judge: Hon. Percy Anderson

Hearing Date: February 1, 2016

Time: 1:30 p.m.

Place: Courtroom 15

1 I, Andrew Ross, the undersigned, hereby declare:

2 1. I am Senior Vice President, Business and Legal Affairs, at Columbia
3 Records, a division of Sony Music Entertainment. I submit this declaration in
4 support of Twentieth Century Fox Television, a division of Twentieth Century Fox
5 Film Corporation, and Fox Broadcasting Company's (collectively, "Fox") Motion
6 for Summary Judgment. I have personal knowledge of the facts set forth herein
7 and, if called to testify, could and would testify competently thereto.

8 2. With permission from Fox, Columbia Records acts as the record label
9 for the *Empire* soundtrack music and distributes *Empire*'s original songs. In my
10 role at Columbia Records, I work with Fox on the licensing, release, and marketing
11 of the *Empire* soundtrack music.

12 3. The week each episode of *Empire* is broadcast, Columbia Records
13 releases and distributes digital extended plays of the music from that episode
14 ("Episode EPs"). For the first season, approximately ninety percent of the digital
15 streaming and sales of the Episode EPs occurred in the four days following the
16 episode's broadcast.

17 4. At the conclusion of *Empire*'s first season, Columbia Records also
18 released and distributed an album containing select original songs appearing across
19 *Empire*'s first season ("Season One Soundtrack"). The Season One Soundtrack
20 debuted at number one on the Billboard 200 chart in the United States for the week
21 of March 28, 2015. The Billboard 200 chart for the week of March 28, 2015 is
22 attached hereto as **Exhibit 1**. The Season One Soundtrack is released and
23 distributed with the album cover shown in **Exhibit 2**, which is a print out of
24 Amazon.com's website for the Season One Soundtrack.

25 5. Columbia Records recently released and distributed a second album
26 containing select original songs appearing across the first half of *Empire*'s second
27 season (the "Season Two Soundtrack Volume 1"). The Season Two Soundtrack
28

1 Volume 1 is released and distributed with the album cover shown in Exhibit 3,
2 which is a print out of Amazon.com's website for the Season Two Soundtrack
3 Volume 1.

4
5 I declare under penalty of perjury that the foregoing is true and correct.
6

7 Executed on December 14, 2015, at Chatham, Massachusetts.

8 
9

10 Andrew Ross
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EXHIBIT 1



BILLBOARD 200

How it works

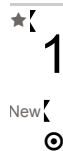


THE WEEK OF
< MARCH 28, 2015 >



ARCHIVE
SEARCH

MM/DD/YYYY



1

Empire: Original Soundtrack From Season 1

[Soundtrack](#)



2

Rebel Heart

[Madonna](#)



3



EXHIBIT 1

Pages 2-25 have been intentionally
omitted per Scheduling Order,
Dkt. 23 ¶ 5(a) at 4:12-17

EXHIBIT 2

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CDs & Vinyl › R&B › Soul

Original Soundtrack from Season 1 of Empire

Empire Cast Format: Audio CD

574 customer reviews

[See all 5 formats and editions](#)

Streaming	MP3 \$9.99	Audio CD \$8.64
-----------	---------------	---------------------------

17 Used from \$3.75
69 New from \$6.36
1 Collectible from \$18.00

Arrives before Christmas.

AutoRip Includes **FREE** MP3 version of this album. Provided by Amazon Digital Services, Inc. [Terms and Conditions](#). Does not apply to gift orders.

Complete your purchase to save the MP3 version to your music library.

Deluxe CD Version with Bonus Tracks Unavailable

There will not be a Deluxe CD version for this album. If you would like to own the bonus tracks, you must purchase the MP3 Deluxe version.

LET YOUR PRESENTS SING
20 HIT MUSIC TITLES ON SALE NOW

Share

Buy New **\$8.64**

Qty: 1 ▾

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In Stock.
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Total price: **\$30.61**

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☒ **This item:** Original Soundtrack from Season 1 of Empire by Empire Cast Audio CD **\$8.64**

☒ **Original Soundtrack Season 2 Volume 1** by Empire Cast Audio CD **\$11.98**

☒ **25** by Adele Audio CD **\$9.99**

Other Sellers on Amazon

\$9.99 **Add to Cart**

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EXHIBIT 2

5

Original Soundtrack
Season 2 Volume 1
Empire Cast
22
Audio CD
\$11.98

25
› Adele
2,298
#1 Best Seller in Music
Audio CD
\$9.99

Empire Season 1
Terrence Howard
1,539
DVD
\$18.03



Calling All Lovers (Deluxe Edition)
› Tamar Braxton
191

Audio CD
\$13.96

Unbreakable
› Janet Jackson
324
Audio CD
\$9.99

Woman
Jill Scott
374
Audio CD
\$13.29

Special Offers and Product Promotions

- Includes FREE MP3 version of this album [Here's how](#) (restrictions apply)
- Save Big On Open-Box & Preowned:** Buy "Original Soundtrack from Season 1 of Empire" from Amazon Warehouse Deals and save 17% off the \$9.98 list price. Product is eligible for Amazon's 30-day returns policy and Prime or FREE Shipping. [See all Open-Box & Preowned offers from Amazon Warehouse Deals.](#)
- Thank you for being a Prime member. **Earn 5% Back Every Day** with the Amazon Prime Store Card. [Apply now.](#)

Editorial Reviews

Original soundtrack to the hit Fox TV series. Empire is the sexy and powerful drama about the head of a music empire whose three sons and ex-wife all battle for his throne. The show stars Terrence Howard, Taraji P. Henson, newcomers Bryshere Grey, and Jussie Smollett. Timbaland serves as music supervisor and each episode features new original music. Guest artists with cameos on the show and contributing music include Estelle, Courtney Love, Anthony Hamilton, Jennifer Hudson, Mary J. Blige, Snoop Dogg and others.

▶ ◀ ▶ Sample this album

1	Good Enough (feat. Jussie Smollett)	3:50	+ Add to Library	<input type="checkbox"/>
2	What Is Love (feat. V. Bozeman)	2:53	+ Add to Library	<input type="checkbox"/>
3	No Apologies (feat. Jussie Smollett, Yazz)	2:52	+ Add to Library	<input type="checkbox"/>
4	Keep It Movin' (feat. Serayah McNeill and Yazz)	3:24	+ Add to Library	<input type="checkbox"/>
5	Walk Out On Me (feat. Courtney Love)	3:25	+ Add to Library	<input type="checkbox"/>
6	Conqueror (feat. Estelle and Jussie Smollett)	4:28	+ Add to Library	<input type="checkbox"/>
7	Remember The Music (feat. Jennifer Hudson)	3:23	+ Add to Library	<input type="checkbox"/>
8	Shake Down (feat. Mary J. Blige and Terrence Howard)	3:26	+ Add to Library	<input type="checkbox"/>
9	Power Of The Empire (feat. Yazz)	3:17	+ Add to Library	<input type="checkbox"/>
10	Nothing To Lose (feat. Jussie Smollett)	2:48	+ Add to Library	<input type="checkbox"/>
11	Whatever Makes You Happy (feat. Jennifer Hudson and Juicy J)	3:15	+ Add to Library	<input type="checkbox"/>

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EXHIBIT 2

6

Product Details

Audio CD (March 10, 2015)

Number of Discs: 1

Label: Columbia

ASIN: B00TKNQCHO

Average Customer Review: (574 customer reviews)

Amazon Best Sellers Rank: #177 in Music (See Top 100 in Music)

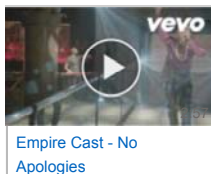
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#7 in [Music](#) > [R&B](#) > [Soul](#)

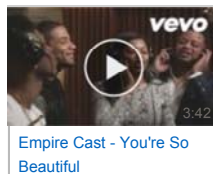
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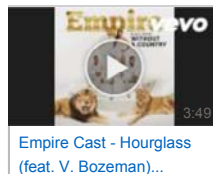
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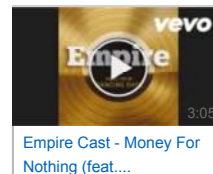
Empire Cast - No Apologies



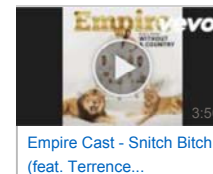
Empire Cast - You're So Beautiful



Empire Cast - Hourglass (feat. V. Bozeman)...



Empire Cast - Money For Nothing (feat....



Empire Cast - Snitch Bitch (feat. Terrence...

Amazon's Empire Cast Store



› [Visit Amazon's Empire Cast Store](#)
for all the music, discussions, and more.

Customer Reviews

574

4.2 out of 5 stars

5 star 61%
4 star 12%
3 star 15%
2 star 7%
1 star 5%

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Most Helpful Customer Reviews

188 of 194 people found the following review helpful

FYI: The CD version only has 11 songs

By [Grapes McFadden](#) on March 10, 2015

Format: Audio CD **Verified Purchase**

The music is great, of course, but as a heads up, the CD is missing a buuuunch of the songs you would get if you bought the mp3 version. If I had known I wasn't going to get Money for Nothing, Drip Drop, or You're So Beautiful, I would've just bought the mp3s instead.

CD Tracklist:

1. Good Enough
2. What is Love
3. No Apologies
4. Keep It Movin'
5. Walk Out On Me
6. Conqueror
7. Remember the Music
8. Shake Down
9. power of the Empire
10. Nothing to Lose
11. Whatever Makes You Happy

[10 Comments](#) Was this review helpful to you? [Report abuse](#)

48 of 54 people found the following review helpful

Do it for the music...

EXHIBIT 2

Pages 4-7 have been intentionally
omitted per Scheduling Order,
Dkt. 23 ¶ 5(a) at 4:12-17

EXHIBIT 3

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CDs & Vinyl > Soundtracks > Television Soundtracks



ORIGINAL SOUNDTRACK SEASON 2 VOLUME 1

Original Soundtrack Season 2 Volume 1

Empire Cast (Artist) Format: Audio CD

22 customer reviews

See all 3 formats and editions

Streaming


MP3 \$14.99

Audio CD \$11.98

10 Used from \$8.78
40 New from \$7.75
1 Collectible from \$20.00


Arrives before Christmas.

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20 HIT MUSIC TITLES ON SALE NOW


Frequently Bought Together



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Total price: \$30.61

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☒ Original Soundtrack from Season 1 of Empire by Empire Cast Audio CD \$8.64

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> Empire Cast

574

Audio CD \$8.64




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Terrence Howard

1,539

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- Thank you for being a Prime member. **Earn 5% Back Every Day** with the Amazon Prime Store Card. [Apply now.](#)

Editorial Reviews

From the mega hit FOX show EMPIRE comes 'Empire: Original Soundtrack, Season 1's chart-topping soundtrack. This collection features songs from the first half of Season 2 and showcases cast members Jussie Smollett (Jamal Lyon) and Yazz (Hakeem Lyon), alongside Terrence Howard (Lucious Lyon) and guest stars Timbaland, Pitbull, Alicia Keys, Bre Z, V. Bozeman and Serayah. The soundtrack was produced by Timbaland, NE-YO, J.R. Rotem and Swizz Beatz.

The soundtrack includes multiple stand-out songs such as the upbeat party track "No Doubt About It," the emotional ballad "Born To Love U," the club anthem "Bout 2 Blow," and the duet by Jussie and Alicia Keys "Powerful."

'Original Soundtrack from Season 1 of Empire' was released in March 2015 and debuted at No. 1 on the Billboard Top 200 chart, making history as the first soundtrack to debut atop the Billboard R&B/Hip Hop chart. To date, the soundtrack has sold over 2 million singles and is approaching half a million albums. The Lyon brothers brought the music to life performing hits from the soundtrack on the 2015 Billboard Music Awards, The Ellen DeGeneres Show, Good Morning America, American Idol, Teen Choice Awards, BET Awards and The View. The 'Original Soundtrack from Season 1 of Empire' received its first nomination for "Top Soundtrack" at the 2015 American Music Awards.



1	Born To Love U (feat. Jussie Smollett)	3:35	+ Add to Library	<input type="checkbox"/>
2	Snitch Bitch (feat. Terrence Howard and Petey Pablo)	3:48	+ Add to Library	<input type="checkbox"/>
3	Hourglass (feat. V. Bozeman)	3:45	+ Add to Library	<input type="checkbox"/>
4	Get No Better (2.0) (feat. Serayah)	2:48	+ Add to Library	<input type="checkbox"/>
5	Bout 2 Blow (feat. Yazz and Timbaland)	3:01	+ Add to Library	<input type="checkbox"/>
6	No Doubt About It (feat. Jussie Smollett and Pitbull)	4:45	+ Add to Library	<input type="checkbox"/>
7	Ain't About The Money (feat. Jussie Smollett and Yazz)	3:12	+ Add to Library	<input type="checkbox"/>
8	Never Love Again (feat. Jussie Smollett)	4:03	+ Add to Library	<input type="checkbox"/>
9	Runnin' (feat. Yazz, Jamila Velazquez, Raquel Castro, and Yani Marin)	2:56	+ Add to Library	<input type="checkbox"/>
10	Boom Boom Boom Boom (feat. Terrence Howard and Bre-Z)	3:37	+ Add to Library	<input type="checkbox"/>
11	Heavy (feat. Jussie Smollett)	2:57	+ Add to Library	<input type="checkbox"/>

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Product Details

Audio CD (November 20, 2015)

Number of Discs: 1

Label: Columbia

ASIN: B016Z7SUEE

Average Customer Review: (22 customer reviews)

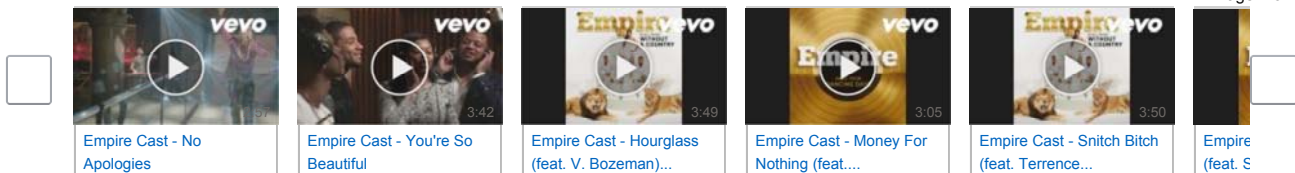
Amazon Best Sellers Rank: #114 in Music ([See Top 100 in Music](#))

#2 in [Music](#) > [Soundtracks](#) > [Television Soundtracks](#)

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Page 1 of 2

EXHIBIT 3

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